

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:) Confirmation No.: 9347
Daisuke KUMAKI et al.) Group Art Unit: 1786
Serial No. 10/587,010) Examiner: Dawn L. Garrett
Filed: July 21, 2006)
For: LIGHT EMITTING ELEMENT AND DISPLAY)
LIGHT EMITTING DEVICE USING THE)
SAME)

PETITION TO EXPUNGE INFORMATION & CORRECTION OF PTO RECORDS

Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant respectfully submits this *Petition To Expunge Information* unintentionally submitted in an application (other than information forming part of the original disclosure) under 37 C.F.R. § 1.59(b). More specifically, an English translation of a document inadvertently assumed to be an English translation of JP Patent Publication No. 2003-264085 was erroneously submitted in the subject application as part of an 01/05/2011 IDS due to a clerical error. The information in question appears in the Image File Wrapper (IFW) as follows:

01-05-2011	FOR	Foreign Reference	PRIOR ART	45
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In total, there are forty-one (45) pages associated with this entry in the IFW, including nineteen (19) pages of the correct Japanese Patent Publication No. 2003-264085 (in Japanese), four (4) pages of related family information and twenty-two (22) pages of an English translation of an April 25, 2005 document entitled "Document for Submission of Publication" that has subsequently been found to not be an English translation of Japanese Patent Publication No. 2003-264085 as inadvertently assumed,

but instead a different document. These twenty-two (22) pages in English include information unintentionally submitted to the present application.

The Applicant respectfully submits that the following factors are favorable to the grant of the present *Petition*.

- A Notice of Allowance or Issue Fee Notification has not been received in this case, so there should be sufficient time to decide the present *Petition* and effect such return prior to the issuance of any patent on the application in issue.
- The Applicant states herewith that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted. Specifically, the review of the present application may be subject to misinterpretation based on the presence of this misleading information that a full translation was provided.
- The petitioner hereby makes a commitment to retain such information for the period of any patent with regard to which such information is submitted.
- The Applicant states herewith that the information is not material information under 37 CFR § 1.56 because it is not a translation of Japanese Publication No. 2003-264085 as wrongly assumed, and that Applicant is not aware of any materiality in the document.
- The correct Japanese Publication No. 2003-264085 (in Japanese) has already been submitted and considered by the Patent Office in connection with the January 5, 2011 Information Disclosure Statement (IDS). In particular, as noted in the IDS, the '085 Publication was submitted along with several English language equivalent family members, including U.S. 7,420,203; U.S. 7,473,923; U.S. 2003/0127967; U.S. 2009/0045738; EP 1,318,553; and EP 1,919,008, which collectively provide a concise statement of relevance for the '085 Publication. Thus, no further consideration by the Examiner is believed necessary.

- To more completely correct the written record upon expungement of the above-identified information, Applicant is providing a replacement PTO-1449 properly listing JP 2003-264085 by replacing reference to a "FULL" translation being provided with "US Equiv" so as to correct the Patent Office records as a "FULL" translation of the '085 Publication has not been submitted, but one or more U.S. equivalents have been.
- The petition fee as set forth in 37 CFR § 1.17(g) is included.

The Applicant respectfully requests grant of the present *Petition*, return of the information identified herein, and correction of the IFW so as to expunge the information from the electronic databases of the Patent Office.

The Applicant also petitions for correction of the Patent Office records. As noted above, the information to be expunged was not a translation of the '085 Publication. Accordingly, Applicant's PTO-1449 submitted with the January 5, 2011 Information Disclosure Statement may be considered inaccurate or misleading as a "FULL" translation of the '085 Publication was not provided. Thus, besides expunging of the above document, Applicant requests correction of the Patent Office records by replacement of the filed PTO-1449 in the IFW with the attached replacement PTO-1449, which correctly states that a "US Equiv" has been provided.

Should the Examiner or Office of Petitions believe that anything further would be desirable to place this *Petition* in better condition for approval or this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 23-0920.

Respectfully submitted,



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